

WESTERN AUSTRALIA.

BUSH FIRES.

No. 55 of 1937.

Reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by the Acts Nos. 53 of 1940 (a), 16 of 1942 (b), 53 of 1945 (c), 76 of 1948 (d), 79 of 1948 (e) and 35 of 1949 (f).

AN ACT to make better provision for diminishing the dangers resulting from Bush Fires, for the prevention, control, and extinguishment of Bush Fires, and for other purposes incidental thereto.

[Assented to 18th January, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Bush Fires Act, 1937-1949.*

Short title.
No. 55 of 1937, s. 1.

2. This Act is divided into Parts, as follows:—

No. 53 of 1940, s. 18.
No. 16 of 1942, s. 9.

PART I.—ss. 3 to 7—PRELIMINARY.

No. 35 of 1949, s. 2.

PART II.—ss. 8 to 21—PREVENTION OF BUSH FIRES.

PART III.—ss. 22 to 31—CONTROL AND EXTINGUISHMENT OF BUSH FIRES.

Act divided into Parts.

Division 1—ss. 22 to 26—Local Authorities.

No. 55 of 1937, s. 2.

Division 2—ss. 27 to 31—Bush Fire Brigades.

No. 53 of 1940, s. 2.

PART IV.—ss. 32 to 45—MISCELLANEOUS.

SCHEDULE—ACTS REPEALED.

PART I.—PRELIMINARY.

3. This Act shall not affect the provisions of the Fire Brigades Act, 1942-1949 (No. 35 of 1942 as amended), or of the Forests Act, 1918-1931 (No. 8

Saving provisions.
No. 55 of 1937, s. 3.

(a) Assented to 30th December, 1940. (b) Assented to 9th December, 1942. (c) Assented to 30th January, 1946. (d) Assented to 21st January, 1949. (e) Assented to 25th January, 1949. (f) Assented to 26th October, 1949.

of 1919 as amended); and the provisions of this Act shall not be construed so as in any manner to limit or restrict the effect and operation of any provisions of either of the Acts aforesaid.

Acts
repealed.
No. 55 of
1937, s. 4.

4. The Acts mentioned in the Schedule to this Act are hereby repealed.

Interpreta-
tion; see 1
and 2 Edw.
VII. No. 18,
s. 4; see
S.A. No.
2139, s. 3.
No. 55 of
1937, s. 5.
No. 53 of
1940, s. 3.
No. 79 of
1948, s. 3.

5. In this Act, subject to the context—

Inserted by
No. 53 of
1940, s. 3 (a).

“adjoining,” when used with respect to two or more pieces of land, extends to pieces of land which are separated only by a road or roads or by a railway or by a water-course;

“bush” means and includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds and sizes whether alive or dead, and whether standing or not standing and also any parts of any trees, bushes, plants, or undergrowths, and whether severed therefrom or not so severed. The term does not include sawdust, and other waste timber resulting from the sawmilling of timber in a sawmill whilst such sawdust and other waste timber remain upon the premises of the sawmill in which the sawmilling is carried on;

“local authority” means any municipal council and any road board which the Governor may by proclamation declare to be a local authority for the purposes of this Act:

Provided that any such proclamation may be varied or revoked by a subsequent proclamation;

“occupier of land” means and includes any person residing on the land or having charge or control thereof, whether such person shall be the owner or tenant or a bailiff, servant, caretaker, or other person residing or having charge or control as aforesaid.

Amended by
No. 53 of
1940, s. 3 (b).

The term shall include any person who as mortgagee in possession has possession of any land, although not residing thereon, while such land is unoccupied, and also any person who has the charge or control of two or more separate parcels of land, although such person resides on only one of such parcels of land;

“prohibited times” means the times of the year during which it shall be declared by the Governor to be unlawful to set fire to the bush within any district or part of the State;

“stubble” means and includes stubble, hay, straw, grass, herbage and all other vegetation, whether alive or dead, and whether standing or not standing.

6. This Act shall be administered by the Minister.

Administra-
tion; see 1
and 2 Edw.
VII., No. 18,
s. 2.
No. 55 of
1937, s. 6.

7. (1) There shall be a committee, to be called the Rural Fires Prevention Advisory Committee.

Advisory
Committee.

(2) The committee shall consist of not more than nine members, who, subject to the provisions of the next following subsection, shall be appointed by the Governor on the recommendation of the Minister, and who shall hold office during the pleasure of the Governor.

Inserted by
No. 53 of
1940, s. 4, as
s. 6A, now
renumbered
s. 7.

cf. S.A. No.
27 of 1939,
s. 2.

(3) Such number of members of the committee as is nearest to one third of the number of the members for the time being shall be appointed by the Governor on the recommendation of the Executive Council of the Road Board Association of Western Australia, Inc.

(4) One of the said members shall, on the recommendation of the Minister, be appointed by the Governor as chairman of the committee, and shall hold such office during the pleasure of the Governor.

(5) The committee shall—

- (a) report to the Minister, as often as it thinks expedient, as to the best means to be taken for preventing or extinguishing bush fires;
- (b) perform and undertake such powers and duties as may be entrusted to it by the Minister; and
- (c) generally advise the Minister upon the administration of this Act.

(6) The Minister may, on the recommendation of the committee, pay to any member of the committee, who is not a servant in the employment of the Crown, any travelling or other expenses actually incurred by the member in the exercise of his office.

PART II.—PREVENTION OF BUSH FIRES.

8. (1) The Governor may by a notice published in the *Government Gazette* declare any defined portion of the State to be a fire protected area.

(2) Within any such area, whilst such notice remains unrevoked, it shall be unlawful for any person to set fire to the bush on any land at any time, except between the thirty-first day of May and the next following first day of October in any year, without the permission of the Minister or of an officer acting with the authority of the Minister.

Penalty—Fifty pounds.

(3) Permission under subsection (2) hereof, when granted, shall be so granted subject expressly to compliance by the applicant with such conditions as may be prescribed by regulations or as may be imposed by the Minister or officer granting permission to restrict the fire to the land on which the burning of the bush is to be carried out.

Fire protected areas. No. 55 of 1937, s. 7. No. 53 of 1940, s. 5. Now renumbered s. 8. See 1 and 2 Edw. VII., No. 18, s. 7A, as amended by No. 27 of 1925, s. 5.

(4) Notwithstanding that permission is granted as aforesaid, nothing in this section shall be deemed to relieve any person from liability for any actionable damage sustained by any other person in consequence of the burning operations carried out pursuant to such permission.

Repealed by No. 78 of 1948, s. 4, and re-enacted by No. 35 of 1949, s. 3.

9. (1) The Governor may by notice published in the *Government Gazette* declare the times of the year during which it shall be unlawful to set fire to the bush within any district or part of the State mentioned in the notice.

Governor may declare prohibited times.
No. 55 of 1937, s. 8.
See 1 and 2 Edw. VII., No. 18, s. 5.
No. 16 of 1942, s. 2.

(2) A copy of the *Gazette* containing any such notice shall be received in all courts of justice and elsewhere as evidence of the prohibited times within the district or part of the State named in such notice.

(3) The Minister, from time to time, may suspend the operation of any declaration made under the provisions of subsection (1) of this section so far as the declaration extends—

No. 79 of 1948, s. 5 (a).

(a) to any land used for railway purposes, subject to such conditions as may be prescribed, or as may be imposed by the Minister, for any period expiring not later than the fifteenth day of January in any yearly period;

No. 35 of 1949, s. 4.

(b) to any land under the control of the Conservator of Forests, for any period not exceeding eight weeks in any yearly period;

(3a) (a) For the purposes of this subsection—

Nos. 53 of 1945, s. 2, and 79 of 1948, s. 5 (b).

(i) section eleven, subsection (1), paragraph (c) of this Act shall be construed and given effect as if the words "a width of at least six feet" were substituted for the words "a width of at least ten feet" in lines five and seven;

- (ii) "common boundary" means the boundary common to railway land and contiguous land;
- (iii) "contiguous land" means land contiguous to railway land;
- (iv) "contiguous occupier" means an occupier of contiguous land;
- (v) "fire break" means the width of at least six feet referred to in subparagraph (i) of this paragraph;
- (vi) "railway land" means land used for the purposes of a railway;
- (vii) "railway occupier" means an occupier of railway land.

(b) When, during the operation of a suspension granted pursuant to the provisions of the last preceding subsection, a railway occupier is setting fire to the bush on railway land, it shall be lawful for the contiguous occupier, subject to the provisions of this subsection, to set fire to the bush on the contiguous land, between the common boundary and the fire break hereinafter referred to, for the purpose of protecting his pasture or crop from damage by fire.

(c) Before setting fire to the bush on the contiguous land, the contiguous occupier shall—

- (i) notify the local authority, constituted in respect of the municipal district or the road district, as the case may be, in which the contiguous land is situated, of his intention to do so, and obtain the approval in writing of that authority to his doing so;
- (ii) prepare a fire break, the boundary of which, nearer to, and parallel, or approximately parallel, with, the common boundary, shall not, at any point, be of a greater distance than three chains from the common boundary.

(d) The contiguous occupier shall comply with and observe the provisions of this Act generally and of the conditions referred to in section eleven of this Act, as modified by the provisions of this subsection particularly.

(e) The contiguous occupier and the railway occupier shall, insofar as is reasonably practicable, co-operate with each other in setting fire to the bush on the contiguous land and the railway land.

(4) The Minister may by notice published in the *Government Gazette* at any time after the declaration of the prohibited times for any year under subsection (1) hereof and before the commencing date of such prohibited times, postpone until a later date the commencing date of such prohibited times in any district or part of the State, whenever he considers that seasonal conditions warrant such postponement.

Inserted by No. 16 of 1942, s. 2, as ss. (3a), now renumbered (4).

(5) Neither this section nor any declaration under subsection (1) hereof shall apply to any fire-protected area declared under section eight of this Act.

Formerly ss. (4), now renumbered (5).

10. (1) Subject to subsections (2), (3), and (4) of this section every person who shall set fire to the bush on any land within any district or part of the State during the prohibited times for that district or part of the State shall be guilty of an offence.

Penalty for lighting fires: No. 55 of 1937, s. 9. No. 53 of 1940, s. 6. No. 16 of 1942, s. 3. 1 and 2 Edw. VII., No. 18, s. 6.

Penalty—Fifty pounds.

(2) Subject to the due observance of the conditions prescribed in section eleven of this Act, it shall be lawful for any owner or occupier of land to do any of the following things, namely:—

Inserted by No. 53 of 1940, s. 6 (a).

- (a) during the prohibited times, to burn off the bush upon such land between two plough breaks or spade breaks, between the hours of eight o'clock in the evening and midnight of the same day for the purpose of protecting any dwelling-house or other building or stack of hay, wheat, or other produce within ten chains of a dwelling house or other building.

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Provided that the outer plough break or spade break is not distant more than ten chains from the property to be protected;

(b) during the prohibited times in any yearly period prior to the fifteenth day of December in such yearly period when the prohibited times commence before that date and during the first fourteen days of the prohibited times in any yearly period when the said prohibited times commence on or after the fifteenth day of December in such yearly period and between sunrise and midnight on the same day, and with the approval in writing of the local authority in whose district the burning is to take place.

(i) to burn the bush on any road reserve between the road formation and an established fire-break; and

(ii) to burn the bush on any grass land of one chain in width on the land of such owner or occupier between two firebreaks each not less than six feet wide—

for the purpose of protecting from damage by fire his pasture or crop.

(3) It shall be lawful for any owner or occupier of land upon which subterranean clover is growing to burn such clover during the prohibited times for the purpose of facilitating the collection of clover burr therefrom upon and subject to the following conditions, namely:—

(a) The owner or occupier of the land shall first apply for and pay the prescribed fee and obtain from a duly authorised officer for the district of the local authority in which the land is situated, in the prescribed form, a permit to burn clover under and in accordance with the regulations.

- (b) The permit to burn shall not be granted unless and until the applicant for the same satisfies the authorised officer to whom the application is made—
- (i) that the land to be burned at one time and under the permit applied for does not exceed the area as fixed by the authorising officer when granting the permit, provided that the area does not in any case exceed fifty acres;
 - (ii) such area has been surrounded by a firebreak to a width of not less than ten feet;
 - (iii) if the area to be burned is carrying any standing trees (whether green or ring-barked), that such area has been grazed during the growing period of the clover crop to reduce the amount of dead litter to a minimum, and that all grass and debris has been raked to a distance of not less than six feet from the base of each standing tree.
- (c) The application for the permit to burn clover shall be received by the authorised officer to whom the application is made, at least seven days before the day upon which it is intended to commence burning.
- (d) The authorised officer to whom the application for the permit is made shall, before granting such permit, enter upon the land of the applicant to inspect the area proposed to be burned.
- (e) If the permit to burn clover applied for is granted the holder thereof shall, before commencing to burn under the authority of such permit—
- (1) deliver or cause to be delivered personally to each owner or

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occupier of all lands adjoining the area to be burnt, and, where the authorised officer who granted the permit is not an officer of the local authority within whose district the area to be burnt is situated, to such local authority or to the bush fire control officer of such local authority at least four days' notice in writing of his intention to burn such area; and

- (2) if the area to be burnt is situated within two miles of a State forest, deliver or cause to be delivered personally to a forest officer employed in connection with such State forest at least four days' notice in writing of his intention to burn such area.
- (f) The burning of an area under the authority of a permit to burn clover shall be carried out between the hours of four o'clock in the afternoon and midnight of the same day and not at any other periods of the day.
- (g) The owner or occupier of the area to be burned shall himself arrange for and provide at least three men to be constantly in attendance at the fire in the area from the time it is lighted until it is completely extinguished, to assist in keeping the fire under control and preventing it from spreading beyond the area proposed to be burned.

Provided that—

- (i) no permit shall be granted under subsection (3) of this section for the burning of any subterranean clover growing upon any land situate in any locality within the district of a local authority specified by

such local authority in a notice in writing given by it to the duly authorised officer for the district of such local authority, whereby the local authority objects to the issue or grant of any such permit for the purpose aforesaid on the ground that the burning of the clover in respect of which the permit is applied for may be a source of danger to lands adjoining the land on which the proposed burning is intended to take place; and

- (ii) the duly authorised officer may No. 79 of 1948, s. 6 (b). refuse to issue or grant a permit under subsection (3) of this section, or may, on refunding to the owner or occupier who paid the fee in respect thereof, cancel any permit already issued or granted thereunder, when in any case after inspection he is satisfied that, notwithstanding that all the precautions required to be taken under the said subsection in connection with the proposed burning are taken, such proposed burning may nevertheless be or become a source of danger by escaping from the land on which it is intended to carry out such burning.

(4) Subsection (1) of this section shall not apply to any person setting fire to the bush in exercise of any power or duty conferred or imposed by Part III. of this Act.

Certain precautions to be taken when burning bush. No. 55 of 1937, s. 10. No. 53 of 1940, s. 7. 1 and 2 Edw. VII., No. 18, s. 7; No. 27 of 1925, s. 5. See also S.A. No. 2139, s. 4, ss. (4) 1.

11. (1) Subject to subsections (3) and (4) of this section no person shall at any time between the first day of October and the next ensuing thirty-first day of May in any yearly period set fire to the bush on any land, whether such land is within a fire-protected area or not, unless the following conditions are complied with, namely—

- (a) he has delivered or caused to be delivered personally at least two days' notice in writing of his intention to burn such bush to each of the following persons, that is to say—
 - (i) to each owner or occupier of all lands adjoining the land of the person proposing to set fire to the bush as aforesaid upon which or upon any part of which the bush proposed to be burnt is situated
 - (ii) to the secretary or a bush fire control officer of the local authority in whose district or adjacent to whose district the land upon which the bush proposed to be burnt is situated;
 - (iii) where the land upon which the bush proposed to be burnt is situated within two miles of a State forest and the burning operations are intended to take place on a day between the fifteenth day of December and the next fifteenth day of April in any yearly period, to a forest officer employed in connection with such State forest;
- (b) the notice required to be given under paragraph (a) hereof shall contain full particulars of the locality of the bush proposed to be burned;
- (c) the land immediately adjoining on all sides the whole of the land on which the burning is to take place has, throughout the

No. 79 of 1948, s. 7 (a).

whole length of every such side either been ploughed to a width of at least ten feet, or has been cleared of all scrub, stubble, and other inflammable material to a width of at least ten feet;

(d) he has himself arranged for and provided at least three men to be constantly in attendance at the fire from the time it is lighted until it is completely extinguished to assist in keeping the fire under control and preventing it from spreading beyond the land on which the burning is to take place;

(e) the fire is lighted on a day other than Sunday.

Inserted by
No. 53 of
1940, s. 7 (d).

(2) Any person who by any act or omission commits any contravention of this section shall be guilty of an offence.

Penalty—For a first offence twenty pounds, with a minimum of two pounds, and for every subsequent offence, fifty pounds, with a minimum of five pounds.

(3) Nothing in this section shall be deemed to relieve any person from liability for any actionable damage sustained by any other person in consequence of any burning operations carried out in compliance with all the conditions prescribed in subsection (1) of this section, or for payment to any local authority or the Forests Department of the amount of any expenses incurred by it in preventing the extension of the fire started by such person in case it escapes from the land of such person despite due compliance with all the requirements of this section.

No. 79 of
1948, s. 7 (b)
and 35 of
1949, s. 5.

(4) Nothing in this section shall authorise the burning of any bush during the prohibited times or any act or thing contrary to section ten of this Act, or limit or restrict the doing of any act or thing which is authorised and done under Part III. of this Act.

Precautions to be taken with respect to motor vehicles equipped with producer gas apparatus. Inserted by No. 53 of 1940, s. 8, as s. 10A, now re-numbered s. 12.

12. (1) It shall be unlawful to use or drive on any road any motor vehicle equipped with producer gas apparatus unless such motor vehicle is so constructed or equipped as to prevent the escape of sparks, live coals, ashes or cinders.

(2) No person shall at any time between the first day of October and the next ensuing thirty-first day of May in any yearly period clean the fire box of any producer gas apparatus fitted to any motor vehicle which contains live coals or hot ashes or any other matter from which sparks or fire are or is likely to be emitted, unless a space of ground around the said vehicle having a radius of at least twenty feet has been previously cleared of all stubble, scrub, and other inflammable material. All live coals or hot ash or any other matter removed as aforesaid shall immediately be covered with earth or completely saturated with water.

(3) For the purposes of this section the words "motor vehicle" and "road" shall have the meaning attributed to the words aforesaid in the Traffic Act, 1919-1949.

Added by No. 79 of 1948, s. 8.

12A. On and after a day fixed by the Minister and notified in the *Gazette*, it shall be unlawful to operate, during prohibited times, and at any time between the first day of October and the ensuing thirtieth day of April in any yearly period, any tractor unless—

- (a) there is carried on the tractor a fire extinguisher as prescribed;
- (b) the exhaust pipe is vertical and the exhaust system, including pipes, is maintained in sound and efficient condition;
- (c) the exhaust pipe is fitted with a spark arrester as prescribed.

13. (1) Where a bush fire occurs or is burning on any land—

- (a) at any time in any year during the period commencing on the first day of October in one year and ending on the thirty-first day of May in the next ensuing year; and

Occupier to extinguish bush fire occurring on his land during prohibited times. No. 55 of 1937, s. 11. No. 53 of 1940, s. 9.

(b) the bush fire is not part of the burning operations being carried on upon the land—

No. 79 of
1948, s. 9.

- (i) with the permission and in compliance with the conditions referred to in section eight of this Act;
- (ii) in compliance with the provisions of this Act relating to those operations during the operation of any suspension or postponement referred to in section nine of this Act;
- (iii) declared to be lawful by subsections (2) and (3) of section ten of this Act, subject to the compliance with the conditions and observance of the provisions of this Act referred to in those subsections;
- (iv) in compliance with the conditions and observance of the provisions referred to in sections eleven, sixteen and seventeen of this Act, as excepting those operations from the prohibition, contained in those sections, of setting fire to the bush or of lighting or using any fire, as the case may be;
- (v) with the authority, and in accordance with the provisions of the regulations, referred to in section eighteen of this Act—

the occupier of such land shall forthwith, upon becoming aware of such bush fire, whether he has lighted or caused the same to be lighted or not, take all possible measures at his own expense to extinguish such fire, and, if he requires assistance for such purpose and means are available to do so, without leaving the fire unattended, inform the nearest available bush fire control officer of the existence and locality of the fire.

Penalty—Twenty pounds.

(2) If the occupier of the land upon which a bush fire is burning fails to take measures to extinguish the same as required by subsection (1) hereof, the bush fire control officer of any local authority or the forest officer employed in connection with any adjacent State forest upon becoming aware that such fire is burning may enter upon the land of such occupier and take all proper measures to extinguish the same; and, in so far as the measures taken by such bush fire control officer or forest officer as aforesaid are necessitated through the failure of the occupier of the land either himself to take such measures or to inform the nearest available bush fire control officer that assistance was required to extinguish the said bush fire, any expenses incurred by such bush fire control officer or such forest officer in taking measures to extinguish the said fire shall be a debt owing by the occupier of the land to the local authority by which the said bush fire control officer is employed or to the Conservator of Forests, as the case may be, and shall be recoverable from such occupier at the suit of such local authority or such Conservator of Forests, as the case may be, in any court of competent jurisdiction.

Added by
No. 79 of
1948, s. 10.

13A. When a bush fire occurs or is burning on any land at any prohibited time and is not part of burning operations being carried on upon the land in accordance with the provisions of sections sixteen and seventeen of this Act, which except those operations from the prohibition of lighting or using any fire, the provisions of the last preceding section shall apply as if repeated with appropriate adaptations in this section.

Sale and use
of certain
kinds of
matches
may be
prohibited.
No. 55 of
1937, s. 12,
repealed
and new
section
inserted by
No. 53 of
1940, s. 10,
as s. 12, now
renumbered
s. 14.

14. (1) The Governor may by notice published in the *Government Gazette* prohibit the sale or use of matches with self-igniting heads, and of other matches which have wax-coated or grease-coated cotton stems, within the district of any local authority during the period specified in such notice.

(2) While such notice remains unrevoked, any person who sells or uses any matches in contravention of such notice shall be guilty of an offence.

Penalty—Ten pounds.

15. Between the first day of October and the next ensuing thirtieth day of April in any yearly period:—

Other offences.

- (a) no person shall, in connection with any gun, rifle, pistol, or other firearm carry or use any wadding made of paper, cotton, linen, or other ignitable substance;

No ignitable wadding to be carried or used.
No. 55 of 1937, s. 13.
1 and 2 Edw. VII., No. 18, s. 8.

Penalty—Ten pounds.

- (b) the owner or occupier of land or the servant of such owner or occupier who finds thereon any other person using or carrying any gun, rifle, pistol, or other firearm may seize and examine such gun, rifle, pistol, or other firearm, and all ammunition and material carried therewith by such other person for the purpose of ascertaining the nature of any wadding carried or used;

- (c) every person to whom paragraph (b) hereof relates who refuses to allow the seizure and examination authorised in paragraph (b) aforesaid, or who upon the occasion thereof refuses to disclose his name and address to the person demanding the same, or who gives a false name and address shall be guilty of an offence;

Ibid s. 9.

Penalty—Ten pounds.

- (d) No person shall dispose of any burning cigarette, cigar, tobacco or match—

No. 79 of 1948, s. 11.

(i) by throwing it from a vehicle, under any circumstances whatever;

(ii) by disposing of it, otherwise than throwing it from a vehicle, in any circumstances that are likely to set fire to the bush.

Penalty—Ten pounds.

No fire to be lighted in open air unless precautions taken.

No. 55 of 1937, s. 14.

No. 53 of 1940, s. 11.

No. 16 of 1942, s. 4.

1 and 2 Edw. VII., No. 18, s. 10.

16. (1) During the period commencing on the first day of October and ending on the thirty-first day of May next ensuing in every yearly period, no person shall at any time light or use any fire in the open air for any purpose not specifically mentioned or provided elsewhere in this Act, save and except in accordance with and subject to the following provisions, that is to say:—

(a) a fire for the purpose of camping or cooking shall not be lighted within ten feet of any log or stump and unless and until a space of ground around the site of such fire having a radius of at least ten feet from such site as the centre has been cleared of all stubble, scrub, branchwood, and other inflammable material;

(b) a fire shall not be lighted for the conversion of any bush into charcoal unless and until a space of ground around the periphery of every kiln, pit, or retort used for such purpose has been cleared of all stubble, scrub, branchwood, and other inflammable material for a distance of at least twenty feet and the directions and requirements (if any) given or specified by a bush fire control officer or forest officer as being, in his opinion, necessary for the purpose of preventing the fire from spreading or escaping, have been duly carried out or complied with;

(d) a log fire shall not be lighted for the purpose of disposing of the carcass of any dead animal, unless and until a space of ground around the periphery of the heap of logs and the carcass to be burnt has been cleared of all stubble, scrub, branchwood, and other inflammable material for a distance of at least twenty feet; also no such fire shall be lighted within a distance of twenty feet of any standing tree, whether dead or living, and unless at least one person is and remains in attendance constantly at such fire;

Formerly paragraph (c) of No. 55 of 1937 ss.

(1) of paragraph 14 (inserted by No. 53 of 1940, s. 11) later re-numbered s. 16 in the reprint mentioned in No. 18 of 1942, s. 1, which Act by s. 4 (a) repealed paragraph (b) of ss. (1) of s. 16.

In the reprinted Acts, 1943, Vol. 2,

paragraph (c) was re-lettered as paragraph (b) but paragraphs (d) and (e) were not re-lettered.

(e) where any fire has been lighted for any purpose mentioned in the foregoing provisions of this subsection, the person lighting such fire, or the person left in attendance on such fire as required by this subsection, as the case may be, shall completely extinguish such fire by the application of water or earth before he leaves the place where such fire was lighted.

(2) Any person who commits any contravention of subsection (1) hereof shall be guilty of an offence.

Penalty—Twenty pounds with a minimum of two pounds.

Provided that, where the occupier of a sawmill uses a fire on the premises of his sawmill to consume or dispose of sawdust and waste timber resulting from the sawmilling of timber in such sawmill, it shall not be necessary to extinguish such fire whilst it is still required for use as aforesaid if and so long as the said occupier causes reasonable precautions to be taken, and causes the particular directions or requisitions of a bush fire control officer or of a forest officer giving such directions or making such requisitions to be properly observed for the purpose of preventing such fire from spreading or becoming a source of danger to persons or property.

17. (1) During the period commencing on the first day of October and ending on the fifteenth day of January in every yearly period, no person shall at any time light or use a fire in the open air at any place within the boundaries of the Geraldton, Northampton, Upper Chapman, Greenough, and Gascoyne-Minilya or other proclaimed road districts for the purpose of burning tomato plants, or the refuse thereof, save and except in accordance with and subject to the following provisions, that is to say—

Burning of
tomato
plants.
Inserted by
No. 53 of
1940, s. 12,
as s. 14A,
now re-
numbered
s. 17.
No. 16 of
1942, s. 5.

(a) the area of ground on which the tomato plants or refuse are to be burnt shall be

Bush Fires.

so cleared or prepared that the fire shall not in any circumstances be able to run along the ground;

- (b) the plants or refuse to be burnt shall be placed in heaps and so that each heap shall not be more than three feet high measured from the ground, and shall not cover an area of ground exceeding that which would be contained within the circumference of a circle having a diameter of six feet and so that there shall be a distance of at least ten feet between the base of any one heap and that of any other heap;
- (c) the heaps mentioned in paragraph (b) hereof shall be distant approximately one-half chain from any brush fence in the vicinity thereof, and at least one chain from the nearest boundary of any pastoral or agricultural property adjoining the land upon which such heaps are situated;
- (d) the person proposing to burn tomato plants or refuse thereof as aforesaid shall—
 - (i) two days at least before doing so, deliver or cause to be delivered notice in writing of his intention so to do personally to each owner or occupier of all lands adjoining the land upon which the tomato plants or refuse will be burnt, and also to the secretary or a bush fire control officer of the local authority in whose district or adjacent thereto the said last-mentioned land is situated;
 - (ii) before commencing burning operations, provide and have available at the place thereof at least eight gallons of water in suitable containers which can be conveniently used for extinguishing fire;
 - (iii) provide at least three men to be constantly in attendance at the burning operations from the time when the fire is

lighted until it is completely extinguished, and to assist in keeping the fire under control and prevent it from spreading beyond the land on which the said burning operations are conducted;

(iv) carry out the burning operations only between eight o'clock in the evening and midnight on the same day; or between such other hours as may be prescribed by the regulations;

(v) cause all ash resulting from the burning operations to be covered completely with earth or sand before ten o'clock in the morning of the day next following such burning operations;

(e) the provisions of subsection (3) of section eleven of this Act, with such adaptations as may be necessary, shall be deemed to be incorporated in and to form part of this section and shall apply and have effect accordingly.

Amended by
No. 16 of
1942, s. 5.

(2) Any person who commits any contravention of subsection (1) hereof shall be guilty of an offence.

Penalty—Twenty pounds with a minimum of two pounds.

18. (1) When in the opinion of the Minister it is desirable that any plant, or the refuse thereof, should be burnt during the prohibited times in order to prevent or eradicate disease arising or likely to arise from such plant, or the refuse thereof, the Governor may, on the recommendation of the Minister, by proclamation—

Burning of
plants to
prevent
disease.
Inserted by
No. 16 of
1942, s. 6, as
s. 17A, now
re-numbered
s. 18.

(a) authorise the burning of any plant, to be specified in the proclamation, and the refuse thereof, during the prohibited times or during any period of the prohibited times, to be stated in the proclamation; and

(b) declare that such proclamation shall take effect either generally or only in particular road districts which are specified in the proclamation.

(2) Any proclamation issued under subsection (1) of this section may be revoked, amended, or varied at any time by a subsequent proclamation.

(3) When a proclamation authorises the burning of a plant, or the refuse thereof, the burning so authorised shall be carried out subject to and in accordance with the regulations.

(4) If any person who pursuant to a proclamation issued under this section carries out the burning of a plant, or the refuse thereof, but fails in any respect to carry out such burning in accordance with the regulations, he shall be guilty of an offence against this Act.

Penalty—Twenty pounds.

No smoking near stacks, etc.
No. 55 of 1937, s. 15.
1 and 2 Edw. VII., No. 18, s. 11.

19. No person shall at any time smoke any pipe, cigar, cigarette or other substance within twenty yards of any stable, rick, stack, or field of hay, corn, straw, stubble or other inflammable vegetable production, unless such smoking is within a town or with a pipe properly and securely covered, or upon a public road or highway.

Penalty—Five pounds, with a minimum of two pounds.

Lighting or attempting to light a fire likely to injure.
No. 55 of 1937, s. 16.
1 and 2 Edw. VII., No. 18, s. 12.

20. Any person who—

(a) lights or causes to be lighted or attempts to light any fire; or

(b) puts or places any matches or other inflammable or combustible substance, matter, or thing in such a position that the same may directly or indirectly be ignited by the sun's rays or by friction or other means, or be exploded or set on fire, or whereby any fire may be lighted or caused

under such circumstances as to be likely to injure or damage any person or property shall, whether such fire shall be caused or not, be guilty of an offence.

Penalty—Imprisonment with or without hard labour for one year, or a fine of one hundred pounds.

21. (1) At any time, and from time to time, any local authority may, and, if so required by the Minister, shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to any owner or occupier of land situate within the district of such local authority requiring him, within a time to be specified in the notice, to plough or clear upon the land of such owner or occupier firebreaks in the manner at the places and to the width specified in such notice.

Local authority may require occupiers of land to plough or clear firebreaks. No. 55 of 1937, s. 17. No. 53 of 1940, s. 13.

(2) If the owner or occupier of land who has received notice under subsection (1) hereof fails or neglects in any respect duly to comply with the requisitions of such notice he shall be guilty of an offence.

Penalty—Twenty pounds, with a minimum of two pounds.

(3) Should an owner or occupier of land who has received notice under subsection (1) hereof fail or neglect to comply with the requisitions thereof within the time specified in such notice, the local authority may direct its bush fire control officer, or any other officer of the local authority, to enter upon the land of such owner or occupier and to carry out the requisitions of the notice which have not been complied with; and such bush fire control officer or other officer aforesaid may, in pursuance of such direction, enter upon the land of the said owner or occupier with any servants, workmen, or contractors, and with such vehicles, machinery, or appliances as may be required, and may do such acts, matters, and things as may be necessary to carry out the requisitions of the notice.

(4) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (3) hereof shall be ascertained and fixed by the local authority, and a certificate signed by the mayor or chairman of the local authority shall be conclusive evidence of such amount; and the local authority may recover such amount in any court of competent jurisdiction as a debt due from the owner or occupier of land in default as aforesaid to the local authority.

Added by
No. 79 of
1948, s. 12.

(4a) A local authority may, at the request of the owner or occupier of any land in the municipal district or the road district, as the case may be, in respect of which the local authority is constituted, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of any fire danger, and the amount of the expenses of carrying out the works may, if not paid on demand, be recovered from the owner or occupier by the local authority in any court of competent jurisdiction as a debt.

Conservator
of Forests
may
require
occupiers of
land to
plough or
clear
firebreaks.
Inserted by
No. 53 of
1940, s. 13
(6).

(5) The owner or occupier of land which abuts upon Crown lands, reserves, or other land which is unoccupied by abandonment, may enter upon such land for the purpose of clearing and/or ploughing firebreaks not more than twelve feet in width from the boundary of such land.

(6) (a) In the event of mutually satisfactory arrangements for the making of firebreaks between the owner or occupier of any land and the Conservator of Forests not being made at any time, and from time to time, the Conservator of Forests may give notice in writing to the owner or occupier of any land adjoining or adjacent to any State forest on which the Conservator has established marginal and internal firebreaks, requiring him, within a time to be specified in the notice, to plough or clear upon that part of his land which is nearest to the State forest, firebreaks in the manner prescribed in paragraph (c) of subsection (1) of section eleven of this Act.

(b) As and whenever the Conservator of Forests gives any notice to any owner or occupier of land as provided for in paragraph (a) hereof, the provisions of subsections (2), (3), and (4) of this section shall, with such adaptations as are necessary, apply and have effect in the same manner and to the same extent as if they were expressly incorporated in this subsection.

(7) If a local authority, when requested so to do by the Minister, fails to give to any owner or occupier of land a notice under subsection (1) of this section, the Minister may give such notice and thereafter subsection (2) and subsection (3), with such adaptations as may be necessary, shall apply and have effect as if they were expressly incorporated in this subsection.

Powers of
Minister on
default by
local
authority.
Inserted by
No. 53 of
1940, s. 13
(b).

(8) If a local authority, in compliance with a request by the Minister, gives to an owner or occupier of land a notice under subsection (1) of this section but thereafter, upon failure by such owner or occupier to comply with the requirements of such notice, the local authority refuses or fails to exercise its powers under subsection (3) of this section, the Minister may by his servants or agents exercise all the powers which the local authority can exercise and has refused or failed to exercise to insure that the requirements of the said notice are properly carried out.

Inserted by
No. 53 of
1940, s. 13
(b).

(9) Where in any case provided for either in subsection (7) or subsection (8) of this section, the Minister, in consequence of default by the local authority, has caused the requirements of the notice to be carried out and has incurred any costs and expenses in connection therewith, the amount of such costs and expenses so incurred shall be ascertained and fixed by the Minister, and a certificate signed by the Minister shall be conclusive evidence of such amount, and the Minister may recover such amount in any court of competent jurisdiction as a debt due from the local authority or from the owner or occupier of land in default, according as the Minister may at his option elect.

Inserted by
No. 53 of
1940, s. 13
(b).

(10) Where in accordance with subsection (9) of this section the Minister has taken proceedings against, and obtained a judgment against, the local authority, the local authority shall not have any recourse against, or right to contribution by, the owner or occupier of land in default under this section in respect of such judgment.

PART III.—CONTROL AND EXTINGUISHMENT OF BUSH FIRES.

Division 1—Local Authorities.

22. A local authority may, notwithstanding anything to the contrary contained in any other Act, expend any portion of its ordinary revenue for all or any of the following purposes, namely:—

- (a) in the purchase and maintenance of appliances, equipment, and apparatus for the prevention, control, and extinguishment of bush fires;
- (b) in paying the cost of clearing any street, road, or reserve vested in it or under its control of any bush, stubble, and other inflammable material for the purpose of preventing the spread of any fire;
- (c) in connection with the exercise of any of its powers under this Part of this Act;
- (d) in establishing and maintaining bush fire brigades as a part of its organisation for the prevention, control, and extinguishment of bush fires;
- (e) in subsidising any bush fire brigade voluntarily established within the district of the local authority as distinct from a bush fire brigade established and maintained by the local authority, which is duly registered under and in accordance with this Part of the Act; and
- (f) in assisting the occupier of any farm lands within its district to acquire appliances, equipment, and apparatus for the prevention, control, and extinguishment of bush fires upon or threatening his

Local authority may expend moneys in connection with control and extinguishment of bush fires. No. 55 of 1937, s. 18. No. 16 of 1942, s. 7. cf. S.A. No. 2139, s. 28.

Inserted by No. 16 of 1942, s. 7, as paragraph (e) now re-lettered paragraph (f).

said land, including the sale, loan or exchange to such occupier of appliances, equipment, and apparatus belonging to the local authority;

- (g) in paying the expenses or costs of any other act, matter, or thing done or acquired in connection with the prevention, control, and extinguishment of bush fires, the doing or acquisition of which is approved by the Governor or authorised otherwise by the provisions of this Act.

Formerly paragraph (f) now re-lettered paragraph (g).

No. 79 of 1943, s. 13.

23. (1) A local authority may from time to time appoint and employ such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act.

Local authority may appoint bushfire control officers.

No. 55 of 1937, s. 19. cf. S.A. No. 2139, s. 29.

(2) Every such appointment shall be notified in the *Government Gazette*, and advertised at least once in a newspaper circulating in the district.

(3) The general powers of the local authority which appoints and employs such bush fire control officers with respect to other officers appointed by it under its local governing Act shall apply with respect to its bush fire control officers appointed and employed under this section.

(4) Every bush fire control officer appointed under this section shall, subject to such directions as are given by the local authority, and subject to this Act and regulations and by-laws made under this Act, take any measures which appear to him to be necessary or expedient and practicable for—

- (a) preventing the outbreak of bush fires;
- (b) protecting life and property in the case of an outbreak of bush fire;
- (c) controlling and extinguishing any bush fire or preventing the spread thereof;
- (d) exercising any authority or carrying out any duty conferred or imposed upon him by any of the provisions of Part II. of this Act;
- (e) procuring the due observance by all persons of the provisions of Part II. of this Act.

Special powers of bush fire control officer.
No. 55 of 1937, s. 20.

24. Subject as in this section and as in this Act hereinafter provided, every bush fire control officer appointed by a local authority under this Act may, in the exercise of his functions and the performance of his duties under this Act, after consulting with the occupier of the land if he be present, do all or any of the following things—

- (a) exercise any of the appropriate powers of the Chief Officer of Fire Brigades under the Fire Brigades Act, 1942-1949, in so far as the same may be necessary or expedient, for extinguishing a bush fire which is already burning or for preventing the spread or extension thereof;
- (b) enter any land or building, whether private property or not;
- (c) pull down, cut, and remove fences on any land, whether private property or not, when in his opinion the same is necessary or expedient for the purpose of taking effective measures for extinguishing a bush fire which is already burning, or for preventing the spread of extension thereof;
- (d) cause firebreaks to be ploughed or cleared on any land, whether private land or not, and take any other appropriate measures on any such land as he may deem necessary for the purpose of controlling or extinguishing a bush fire which is already burning or for preventing the spread or extension thereof;
- (e) take and use water, other than that for use at a school or an occupier's domestic supply contained in a tank at his dwelling-house, and any other fire extinguishing material from any source whatever on any land, whether private property or not;
- (f) take charge of and give directions to any bush fire brigade present at any bush fire with respect to its operations or

activities in connection with the extinguishment or control of such bush fire, or the prevention of the spread or extension thereof;

- (g) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers; and
- (h) employ any person or use the voluntary services of any person to assist him, subject to his directions in the exercise of any of the foregoing powers:

Provided that, when any bush fire is burning in or on any State forest within the meaning of the Forests Act, 1918-1931, or in or on any Crown lands, the powers and authorities conferred by this Act upon a bush fire control officer appointed by a local authority under this Act shall be vested in and be exercisable by any forest officer appointed under the Forests Act, 1918-1931, who may be present at such bush fire; and if any such forest officer is present at any such bush fire the said powers and authorities shall not be exercisable by any bush fire control officer appointed as aforesaid, except with the approval of and subject to the directions of such forest officer, whilst such forest officer continues to be present at such bush fire.

25. (1) On the outbreak of a bush fire at any place within or adjacent to the district of the local authority the bush fire control officers of such local authority, or as many of them as may be available shall, with all possible speed—

- (a) inform an officer or member of every registered bush fire brigade established in the district in which the bush fire is burning of the outbreak and locality of such bush fire; and
- (b) proceed to the place where the bush fire is burning with such fire-preventing and fire-extinguishing appliances, equipment, and apparatus as may be available for use by them; and

Duties of bush fire control officer on outbreak of bush fire.
No. 55 of 1937, s. 21.
cf. B.A. No. 2139, s. 29
(6).

(c) subject to this Act, take charge of the operations for controlling and extinguishing the bush fire or for preventing the spread or extension thereof.

(2) If a bush fire to which this section applies occurs and no bush fire control officer of the local authority in whose district the bush fire is burning is present at such fire, any bush fire control officer of any adjoining or adjacent local authority may exercise in respect of such bush fire all the powers and authorities of a bush fire control officer of the local authority in whose district the fire is burning.

(3) This section shall apply only to bush fires which—

- (a) have been lighted or are maintained unlawfully (whether in contravention of this Act or not); or
- (b) have occurred accidentally; or
- (c) have ceased to be under control or are not adequately controlled; and
- (d) to such other bush fires as are prescribed by regulations.

Local authorities may join in appointing and employing bush fire control officers.
No. 55 of 1937, s. 22.

26. (1) Any two or more local authorities may by agreement join in appointing and employing bush fire control officers for the purposes of this Act and in remunerating them.

(2) Bush fire control officers so appointed may exercise their powers and authorities and shall perform their duties under this Act in each and all of the districts of the local authorities which have joined in appointing them.

Division 2—Bush Fire Brigades.

Bush fire brigades.
No. 55 of 1937, s. 23.
See Vict. 24, Geo. V., No. 4185, s. 8.

27. (1) Any local authority may in accordance with by-laws made by the local authority for the purpose, establish, maintain and equip with appliances, equipment, and apparatus a bush fire brigade, and any association of persons may voluntarily be formed as a bush fire brigade for the purpose in both cases of taking measures and conducting operations for the control and extinguishment of bush fires.

(2) Every bush fire brigade established or formed under the authority of this section shall be registered in a register of bush fire brigades to be kept by the Minister in accordance with the regulations, and, when so registered, but not otherwise, shall be a bush fire brigade within the meaning and for the purposes of this Act.

(3) Every local authority desiring to register a bush fire brigade established by the local authority and every association of persons desiring to be registered as a bush fire brigade under and for the purposes of this Act shall make application in the prescribed form to the Minister.

(4) The Minister shall register a bush fire brigade established by a local authority in accordance with its by-laws and shall not, except with the consent of the local authority, cancel such registration.

(5) The Minister may refuse to register an association of persons formed as a bush fire brigade, and may at any time cancel the registration of any association previously registered.

28. (1) Any two or more local authorities may by agreement join in establishing, maintaining and equipping with appliances, equipment and apparatus, a bush fire brigade to act as the bush fire brigade of each local authority under and for the purposes of this Act.

Local authorities may join in establishing a bush fire brigade. No. 55 of 1937, s. 24.

(2) Every such bush fire brigade shall be registered as provided for in section twenty-seven of this Act, but it shall be sufficient if the application for such registration is made by any one local authority on behalf of all the local authorities concerned.

29. Every local authority which establishes a bush fire brigade shall by its by-laws, and every association of persons formed as a bush fire brigade shall by rules of the association, provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade, whose duties shall be prescribed by such by-laws or rules as the case may be.

Officers of bush fire brigades. No. 55 of 1937, s. 25. See Vict. 24, Geo. V., No. 4185, s. 9.

Powers and
authorities
of officers of
a bush fire
brigade.
No. 55 of
1937, s. 26.
See Vict. 24,
Geo. V., No.
4185, s. 10.

30. Subject to this Act and the regulations, and subject as in this section hereinafter expressly provided, for the purpose of controlling and extinguishing or preventing the spread or extension of any bush fire which is burning, the captain, or, in his absence, the next senior officer of any bush fire brigade registered under this Act, shall, after consulting with the occupier of the land if he be present, have and may exercise all or any of the following powers and authorities, that is to say:—

- (a) He shall have the control and direction of such brigade at any such fire and of any persons who voluntarily place their services at his disposal.
- (b) He shall have authority, either alone or with others under his command or direction, to enter into any land or premises which may be on fire or in the neighbourhood of any fire for the purpose of taking any steps which he deems necessary for the control or extinguishment or for the prevention of the spread or extension of the fire, and he may take or give directions for taking any apparatus required to be used at a fire into, through, or upon any land or premises which he considers convenient for the purposes aforesaid.
- (c) He may take any measures which in the circumstances are reasonable and appear to him to be necessary or expedient for the protection of life and property; and, for the purpose of controlling or extinguishing or for preventing the spread or extension of a fire, may cause any fences to be pulled down or removed, and any bush, scrub, or stubble or other inflammable material to be burnt or otherwise destroyed or removed.
- (d) He may enter or give directions for entering any land or premises, and take or cause to be taken water from any source whatsoever, other than that for use at a school or an occupier's domestic supply

contained in a tank at his dwelling-house, whether the same is upon private land or other land, and in all other respects, whenever in his opinion he deems it necessary or expedient to do so, he may exercise all the powers and authorities of a bush fire control officer under this Act:

Provided that—

- (i) when the bush fire brigade of a local authority and any other bush fire brigade are present at a fire which is burning within the district of such local authority and a bush fire control officer of such local authority is not present at such fire the captain, or in his absence the next senior officer of the bush fire brigade of the local authority, shall have and take supreme control and charge of all operations and the other bush fire brigades and the officers and members thereof shall be subject to and act under his orders and directions;
- (ii) when a bush fire control officer of any local authority is present at a fire burning in the district of such local authority, such bush fire control officer shall have supreme control and charge of all operations, and the officers and members thereof of all bush fire brigades present at the fire shall be subject to and act under his orders and directions;
- (iii) when any bush fire is burning in or on any State forest within the meaning of the Forests Act, 1918-1931, or in or on any Crown lands, section thirty-one of this Act shall apply.

31. When any bush fire is burning in or near any State forest within the meaning of the Forests Act, 1918-1931, or in or near any Crown lands, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act, or upon a captain or other officer of a bush fire brigade registered under this Act, shall be exercisable by any

As to fires in or near State forests.
No. 55 of 1937, s. 27.
No. 53 of 1940, s. 14.
See Vict. 24, Geo. V., No. 4185, s. 12.

forest officer appointed under the Forests Act, 1918-1931, who may be present at such fire, and if any such forest officer is present at any such fire he shall have and take supreme control and charge of all the operations, and every bush fire control officer, and the officers and members of every bush fire brigade also present at the fire, shall in all respects be subject to and act under his orders and directions.

PART IV.—MISCELLANEOUS.

Damage by bush fire to dividing fence caused by neglect of owner or occupier of land to be made good by him.

No. 55 of 1937, s. 28.

No. 53 of 1940, s. 15.

See S.A. 24, Geo. V., No. 2139, s. 25.

32. (1) If the owner or occupier of any land clears the same of all bush or other inflammable materials for a space of at least ten feet from any fence dividing such land from the land of any other owner or occupier and—

(a) such other owner or occupier does not clear his land contiguous to the said fence similarly for a space of at least ten feet; and

(b) any damage from a bush fire happens to such dividing fence through his failing so to do,

such other owner or occupier shall at his own cost and expense repair or re-erect the fence so damaged within a period of one month from the day when the same is so damaged, or within such extended time as is allowed by a stipendiary or resident magistrate, upon application being made to him in writing of which application not less than seven days' notice in writing has been served on the owner or occupier who has cleared his land as aforesaid.

(2) If the owner or occupier who has failed to clear his land fails to repair or erect the fence damaged within the time or extended time mentioned in subsection (1) hereof, the owner or occupier who has cleared his land as aforesaid may repair or re-erect the fence damaged, and may recover the cost

and expense of so doing in any court of competent jurisdiction as a debt owing to him by the owner or occupier so in default.

(3) A road or a reserve which is vested in a local authority shall not be deemed to be "land of any other owner or occupier" within the meaning of that expression as used in subsection (1) of this section, and in relation to any such road or reserve the local authority shall not be deemed to be the owner or occupier as mentioned in the said expression, and the provisions of subsections (1) and (2) shall be read and construed and have effect accordingly: Provided that nothing in this subsection shall operate so as to relieve any local authority from liability for damage resulting from a bush fire caused by or due to the negligence of any officer, servant or workman employed by such local authority.

Inserted by No. 53 of 1940, s. 15, as ss. (2a), now re-numbered (3).

(4) Where an owner or occupier has failed to clear his land as mentioned in subsection (1) hereof and as a result thereof the dividing fence has been damaged by a bush fire as aforesaid, such owner or occupier shall not be released from any of his obligations under this section merely by reason of the fact that the bush fire which damaged the fence was not lighted by him or did not start on his land.

No. 55 of 1937, s. 28, ss. (3), re-numbered ss. (4).

33. When a bush fire which a coroner under the provisions of the Coroners Act, 1920, has jurisdiction to inquire into originates or extends within the district of a local authority or of a road board (not being a local authority within the meaning of this Act), the coroner having jurisdiction within such district shall hold an inquiry into the cause and origin of such bush fire, if requested in writing so to do by—

Coroner to hold inquiry when requested. No. 55 of 1937, s. 29. See 1 and 2 Edw. VII., No. 18, s. 13. cf. S.A. No. 2139, s. 27.

- (a) the local authority or the road board (as the case may be); or
- (b) any *bona fide* resident in the district who has suffered damage from such bush fire; or
- (c) any forest officer when the fire has originated or extended within two miles of a State forest,

Reports to be furnished by local authorities. Inserted by No. 53 of 1940, s. 16, as s. 29A, now re-numbered s. 33.

34. (1) Every local authority shall, in the month of August in every year, send or cause to be sent to the Minister in writing a statement containing the following information, namely:—

- (a) The names, addresses, and usual occupations of all the bush fire control officers and bush fire brigade officers appointed by or holding office under the local authority;
- (b) where any bush fire control officer holds office in respect of part only of the district of the local authority, descriptive particulars of that part of the said district in respect of which such bush fire control officer holds office as aforesaid;
- (c) particulars of the nature, quantity, and quality of the bush fire fighting equipment and appliances which are generally available within the district of the local authority for use in controlling and extinguishing bush fires.

No. 79 of 1948, s. 14.

(1a) Every local authority shall send to the Minister in the month of June in each year particulars of losses caused by fire in the municipal district or road district, as the case may be, in respect of which the local authority is constituted, in the form prescribed.

(2) Any local authority which, without reasonable excuse, refuses or neglects in any respect to comply with its obligations under this section shall be guilty of an offence.

Penalty—Ten pounds.

This Act not to affect rights at law. No. 55 of 1937, s. 30, cf. 1 and 2 Edw. VII., No. 18, s. 14, cf. S.A. No. 2139, s. 30.

35. Except as in this Act otherwise expressly provided, nothing in this Act, and no conviction, payment of penalty or proceeding taken under this Act shall take away or affect any right of action or other remedy at common law or otherwise which any person may have in respect of any loss or damage caused by any bush fire to which this Act relates.

35A. (1) For the purposes of this Act any local authority in the district of which a bush fire brigade is established may apply to the Minister that such district or any part thereof be declared an approved area.

Added by
No. 76 of
1948, s. 3.

(2) On receipt of such application the Minister may by notice published in the *Government Gazette* declare the district or any part thereof of the local authority to be an approved area.

(3) Before declaring the district or part thereof to be an approved area the Minister may appoint a forest officer to inspect the bush fire brigade of the local authority and report as to the standard of efficiency of such bush fire brigade.

(4) The Minister may require the local authority to pay the cost of any inspection made by a forest officer.

(5) For the purposes of this section "forest officer" means any field officer of the Forests Department.

35B. (1) Where any crop situate wholly or partly within an approved area is insured against loss or damage by fire rate of premium charged by the insurer in respect of such insurance shall not exceed seventy-five per centum of the rate of premium charged by such insurer in respect of crops not situate within an approved area.

Added by
No. 78 of
1948, s. 3.

(2) Any person, firm or corporation which charges any rate of premium in excess of that permitted by this section shall be guilty of an offence.

Penalty—Ten pounds.

(3) For the purposes of this section "crop" means and includes any crop of wheat, oats, barley, flax, meadow hay or rye, whether growing, standing, harvested, cut for hay, stoked, or stacked, including grain, hay or chaff produced therefrom and bags to be used in connection therewith, whilst on the farm on which the crop was produced and whether in the open air or in any building on the farm, or whilst being transported from the farm to a railway siding.

Added by
No. 76 of
1948, s. 3.

35C. If in the opinion of the Minister the bush fire brigade of a local authority at any time is not of a reasonable standard of efficiency, the Minister may by notice published in the *Government Gazette* declare that any approved area within the district of such local authority shall, as from a date to be specified in such notice, cease to be an approved area for the purposes of this Act and accordingly the provisions of section thirty-five B of this Act shall as from such specified date cease to apply to any crop situate within such area except in so far as regards crops on which insurance has been effected prior to such specified date.

Added by
No. 76 of
1948, s. 4.

35D. Sections 35A, 35B, and 35C shall continue in force until the thirty-first day of December, one thousand nine hundred and fifty, and no longer.

Appropriation of penalties.
No. 55 of 1937, s. 31.
cf. 1 and 2 Edw. VII.,
No. 18, s. 16, and No. 27 of 1925, s. 4.

36. (1) All moneys received for penalties imposed for offences against this Act shall be paid to the Minister, who shall pay a moiety thereof, less any expenses, to the local authority within whose district the offence was committed for the use of the said local authority.

(2) Subject to subsection (1) hereof the moneys received by the Minister under this section shall be paid into the Consolidated Revenue Fund.

Duty of police officers and bush fire control officers.
No. 55 of 1937, s. 32.
No. 53 of 1940, s. 17.

37. (1) It shall be the duty of—

- (a) Every member of the Police force and every bush fire control officer appointed under this Act, and every forest officer appointed under the Forests Act, 1918-1931, who finds any person committing any offence against this Act or committing any breach of a regulation or by-law made under this Act to demand from such person his name and place of abode;
- (b) every bush fire control officer aforesaid, when he has obtained the name and place of abode of any person as provided for in paragraph (a) of this subsection, to report the facts of such offence or

breach and the name and place of abode of such person, as soon as conveniently may be, to the local authority in whose district the offence or breach has been committed.

(2) Any such person who refuses to state his name and place of abode when required by a member of the Police force, or by a bush fire control officer or a forest officer so to do, may, without any other warrant than this Act, be apprehended by such member of the Police force, or by such bush fire control officer, or by such forest officer and be taken before justices there to be dealt with according to law.

(3) Any person who in contravention of this section refuses to state his name and place of abode, or states a false name or a false place of abode, shall be guilty of an offence.

Penalty—Ten pounds.

38. Any person who obstructs, hinders, resists, or in any wise opposes any forest officer, bush fire control officer, any officer or member of any bush fire brigade registered under this Act or any other person acting with authority under this Act in the performance or doing of anything which he is empowered or required to do by this Act or by any regulation or by-law under this Act, shall be guilty of an offence.

Obstructing
execution of
Act.
No. 55 of
1937, s. 33.

Penalty—Twenty pounds, and, in addition, if the offence is a continuing one, a daily penalty of two pounds.

39. (1) Any person who acts in contravention of, or fails to comply with, any of the provisions of this Act or any regulation or by-law made thereunder shall be guilty of an offence against this Act and shall be liable, if no other penalty is prescribed, to a penalty not exceeding twenty pounds.

No. 79 of
1948, s. 15.

(2) Notwithstanding the provisions of section one hundred and sixty-six of the Justices Act, 1902-1948, and of sections nineteen and six hundred and sixty-nine of the Criminal Code, 1913, the minimum penalty for any offence against this Act shall, if no other minimum penalty is prescribed, be one-tenth of the maximum penalty for that offence.

(3) When as the result of an offence against this Act, any expense is incurred by any forest officer, bush fire control officer, or any officer or member of any bush fire brigade registered under the provisions of this Act, or by any other person acting under those provisions in the performance of any duty imposed, or the doing of anything which he is empowered or required to do, by those provisions or any regulation or by-law made thereunder—

the Conservator of Forests—

(when the expense is incurred by a forest officer),

or any local authority concerned—

(when the expense is incurred by a fire control officer employed by the local authority, or by any officer or member of a bush fire brigade established and maintained by the local authority), or

the Minister—

(when the expense is incurred by any other person acting pursuant to the provisions of this Act or any regulation or by-law made thereunder)—

- (i) may recover the amount of any expense so incurred from the person committing the offence as a debt due in any court of competent jurisdiction; or
- (ii) may apply to any court of summary jurisdiction convicting the person of the offence for an order for payment by that person of the amount of the expense when that amount does not exceed one hundred pounds in addition to any penalty inflicted in respect of the conviction and that court may grant the order wholly or in part or refuse the order, and payment of any amount

specified in the order may be enforced in the same manner as payment of a pecuniary penalty. Refusal of the Court to grant an order for payment of the whole or part of the expenses shall be no bar to proceedings to recover that whole or part, as the case may be, in any other court of competent jurisdiction; or

- (iii) may issue a certificate that the expense was incurred and as to the amount of the expense, and the certificate, shall be *prima facie* evidence of those facts in all courts.

(4) When proceedings are brought against the person committing the offence for the recovery of the amount of the expenses as a debt, a certificate containing the substance and effect only (omitting the formal parts) of the conviction for the offence, signed or purporting to be signed by the Clerk of Petty Sessions of the court where the offender was convicted, shall, upon proof of identity of the person, be sufficient evidence of the conviction without proof of the signature, appointment or status of the person by whom the certificate is or purports to be signed.

Cr. No. 28 of
1906, s. 23.

40. (1) All proceedings for offences against this Act and the regulations or by-laws made under this Act shall be taken and dealt with summarily in accordance with the provisions of the Justices Act, 1902-1948.

Prosecution
of offences.
No. 55 of
1937, s. 35.
No. 16 of
1942, s. 8.

(2) Every person authorised in that behalf by the Minister may, by virtue of such authority, and every forest officer and every member of the Police force, may, by virtue of his office, and every bush fire control officer at the request of the local authority (or road board not being a local authority within the meaning of this Act) may institute and carry on proceedings against any person for an alleged offence against this Act or any regulation or by-law, and he shall be reimbursed out of the funds of the local authority or road board within

whose district the alleged offence is committed all costs and expenses which he may incur or be put to in or about such proceedings.

(3) A local authority, or a road board (not being a local authority within the meaning of this Act) within whose district an alleged offence against this Act or any regulation or by-law has been committed, may direct its secretary, bush fire control officer, or any other officer to institute and carry on proceedings against the person alleged to have committed such offence, and may pay the costs and expenses incurred in or about such proceedings out of the funds of the local authority or road board.

Assisting to
commit an
offence.
No. 55 of
1937, s. 36.
cf. S.A. No.
2139, s. 35.

41. Wherever in this Act there is a prohibition of the doing of any thing, such prohibition shall be read as including a prohibition of the assisting in or of aiding or abetting in any way the doing of such thing, and of the causing of or suffering the doing thereof, and of any attempt to do such thing, or to cause it to be done or to assist in or aid or abet the doing thereof.

Regulations.
No. 55 of
1937, s. 37.
cf. 1 and 2
Edw. VII.,
No. 18, s.
16A.

42. (1) The Governor may make regulations not inconsistent with this Act for prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which appear to the Governor necessary or convenient to be prescribed for the purpose of effectually carrying out the provisions of this Act or for effecting to the utmost extent the objects and purposes of this Act.

(2) Such regulations may impose a penalty not exceeding twenty pounds for a breach of any regulation.

Local
authority
may make
by-laws.
No. 55 of
1937, s. 38.

43. (1) A local authority may, with the approval of the Governor, make by-laws not inconsistent with this Act or with the regulations made under this Act for and in relation to the appointment, employment, payment, dismissal, and duties of bush fire control officers, for and in relation to the organisation, establishment, maintenance, and equipment with appliances and apparatus of bush fire brigades

to be established and maintained by the local authority, and for and in relation to any other matter affecting the exercise of any powers and authorities conferred and the performance of any duties imposed upon the local authority by this Act.

(2) Where any regulation made by the Governor under this Act is inconsistent with or repugnant to any by-law previously made by a local authority under subsection (1) hereof and still in force, the regulation shall prevail and the by-law to the extent by which it is inconsistent with or repugnant to the regulation shall be deemed to be repealed or cancelled.

44. (1) A local authority, a bush fire control officer, or other officer appointed by a local authority, the officers and members of every bush fire brigade registered under this Act, and a person voluntarily assisting a bush fire brigade, and a forest officer lawfully exercising the powers or authorities or performing the duties conferred or imposed upon such local authority, such bush fire brigade or any of the persons aforesaid by this Act shall not be liable for any damage, loss, or injury caused by the exercise or performance in good faith of any such powers or authorities or of any such duties; and a person acting under and in accordance with any orders or directions of any person who as required by this Act has taken supreme control and charge of operations in connection with the control or extinguishment of a bush fire or the prevention of the spread or extension of a bush fire shall not be liable for any damage, loss, or injury caused by him in good faith when acting under such orders or directions.

Immunity.
No. 55 of
1937, s. 39.
cf. Vict. 24,
Geo. V., No.
4185, s. 13.

(2) Any damage, loss, or injury mentioned in subsection (1) of this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property damaged, lost, or injured, notwithstanding any clause or condition to the contrary contained in such policy.

45. Added by No. 79 of 1948, section 16; repealed by No. 35 of 1949, section 6.

Repeal of
s. 45.

*Bush Fires.***SCHEDULE.**

No. of Act repealed.	Title of Act repealed.
1 & 2 Edw. VII., No. 18 36 of 1904 	Bush Fires Act, 1902. Bush Fires Amendment Act, 1904.
27 of 1925 	Bush Fires Act Amendment Act, 1925.